

Appl. No.: 09/931,670
Grp./A.U. 1616

REMARKS/ARGUMENTS

Favorable consideration and allowance of the instant application is respectfully requested in view of the following remarks.

The Examiner's rejections, as they pertain to the patentability of the claims, are respectfully traversed.

The specification was objected to because of an omission relating related applications. The specification has been amended, per the Examiner's suggestion.

Claim 22 is rejected under 35 U.S.C. § 112, second paragraph. This rejection is respectfully traversed for the following reasons.

Claim 22 has been amended to correct a typo. Accordingly, reconsideration and withdrawal of this objection is respectfully requested.

Claims 11-13, 15, 18 and 20-22 are rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-3, 6 and 9-13 of US 6,309,628 B1. This rejection is respectfully traversed for the following reasons.

The Examiner contends that the present invention is not patentably distinct over the invention of the US '628 reference. More particularly, the Examiner has concluded that both sets of claims are directed to an alkyl ether sulfate, a polymer and a dialkyl ether compound and that the only difference is that the patented claims disclose that the polymer is a silicone compound. Applicant respectfully disagrees with the Examiner's analysis for the following reasons.

First, the claims of the present invention recited the use of a **cationic** polymer, not just any polymer in general. Secondly, the silicone compound disclosed by the US '628 reference has **NOT** been shown by the Examiner to be a **cationic** polymer. Consequently, since the US '628 reference is devoid of any teaching or suggestion relating to the use of a cationic polymer, it should not render the claimed invention prima facie obvious. It is

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extremely well settled that in order to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure [underline emphases added]. See, *Manual of Patent Examining Procedure*, Rev. 3, July 1997, § 2142, pages 2100-108. Since the US '628 reference fails to teach or suggest all of the claim limitations, namely, the cationic polymer, it should not serve to render the claimed invention *prima facie* obvious.


Accordingly, for all of the above-stated reasons, reconsideration and withdrawal of this rejection is respectfully requested.

It is believed that the foregoing reply is completely responsive under 37 CFR 1.111 and that all grounds for rejection are completely avoided and/or overcome. A Notice of Allowance is therefore earnestly requested.

The Examiner is requested to telephone the undersigned attorney if any further questions remain which can be resolved by a telephone interview.

Respectfully submitted,

Cognis Corporation
Patent Department
2500 Renaissance Boulevard, Suite 200
Gulph Mills, PA 19406
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Steven J. Trzaska
(Reg. No. 36,296)
Attorney For Applicant(s)
(610) 278-4929